IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1174 OF 2005
IN
SECOND APPEAL NO.148 OF 2005

Mohan Nivrutti Gavali and anr. .. Applicants
Versus
Harinarayan Shivnarayan Malpani & Ors. Respondents

Mr.R.A.Thorat for applicants
Ms Monica D'Souza for respondents

CORAM : P.V.KAKADE, J.
DATE : 12TH AUGUST, 2005

P.C.:

1. Heard both sides.

2. This application is filed by the respondents on two grounds viz. it is submitted that the incomplete construction may be allowed to be constructed as over all charges of the bank loan and it has become impossible for repaying the loan unless the construction is completed and for that purpose they have also prayed for hearing of the appeal to be expedited.

3. So far as the permission to complete the construction, I am not inclined to grant the such

permission pending the appeal as the issues in dispute are such type of construction cannot be allowed on the suit property unless and until the relevant issues are adjudicated finally. However, for that purpose hearing of the appeal can be expedited, so as to adjudicate the dispute on merits finally, for which aspect the appellants also have no objections.

4. Hence the application is partly allowed in terms of prayer clause (b). The hearing of the appeal is expedited. The print is dispensed with. The private paper book to be circulated. Call for record and proceedings. The matter to be fixed for hearing in the last week of October, 2005.

. In the meantime parties shall maintain status-quo with regard to the suit property.